रजिस्ट्री सं० डी० 221 REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 24] नई दिल्ली, सोमवार, जून 1, 1970/जेष्ठ 11, 1892
No. 24] NEW DELHI, MONDAY, JUNE 1, 1970/JYAISTHA 11, 1892

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

SECRETARIAT
15 JUN 1970
DEPARTMENT OF IN

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 1st June, 1970/Jyaistha 11, 1892 (Saka)

The following Act of Parliament received the assent of the President on the 31st May, 1970, and is hereby published for general information:—

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1970
No. 25 OF 1970

[31*st May*, 1970]

An Act further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Merchant Shipping (Amendment) Act, 1970.

(*2*) This section and sections 2 to 14 (both inclusive) shall be deemed to have come into force on the 21st day of July, 1968 and the remaining sections of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different sections.

Amendment of section 3.

44 of 1958.

2. In section 3 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act),—

(*a*) in clause (*5*),—

(*i*) in sub-clause (*a*), the words "or is deemed to have been declared" shall be omitted;

(*ii*) in sub-clause (*b*), for the words "article twenty-one", the words "article thirty-two" shall be substituted;

(*b*) for clause (*14*), the following clause shall be substituted, namely:—

'(*14*) "free board" means the distance measured vertically downwards, amidships, from the upper edge of the deck line to the upper edge of the related load line;';

(*c*) for clause (*20*), the following clause shall be substituted, namely:—

'(*20*) "Load Line Convention" means the International Convention on Load Lines signed in London on the 5th day of April, 1966, as amended from time to time;'.

Amendment of section 283.

3. In section 283 of the principal Act, the brackets and figure "(*1*)", in the first place where they occur, and sub-section (2), shall be omitted.

Insertion of new section 283A.

4. After section 283 of the principal Act, and before the sub-heading "*Construction of ships*", the following section shall be inserted, namely:—

Definitions.

'283A. (*1*) In this Part, unless the context otherwise requires,—

(*a*) "existing ship" or "existing vessel" means a ship or vessel which is not a new ship or a new vessel,

(*b*) "new ship" or "new vessel" means a ship or vessel whose keel is laid or which is at a similar stage of construction on or after the material date as defined in sub-section (2).

(*2*) For the purposes of sub-section (*1*) "material date",—

(*i*) in relation to an Indian ship, means the 21st July, 1968;

(*ii*) in relation to a foreign ship belonging to a country to which the Load Line Convention applies, means the date as from which it is declared under section 283 that the Government of such country has accepted the Load Line Convention or, as the case may be, that the said Convention has been applied to such country.'.

Amendment of section 310.

5. In section 310 of the principal Act,—

(*a*) in sub-section (*2*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) any sailing vessel, being an existing vessel of less than one hundred and fifty tons gross, or a new vessel of less than twenty-four metres in length, and in either case employed in plying coastwise between ports situated within India, Pakistan, Burma and Ceylon;";

(*b*) in sub-section (*3*), for clause (*d*), the following clauses shall be substituted, namely:—

"(*d*) any coasting ship, being an existing ship of less than one hundred and fifty tons gross or a new ship of less than twenty-four metres in length:

Provided that any such ship does not carry cargo;

(*e*) any ship which embodies features of a novel kind, if the Central Government is satisfied that the application of the provisions of this Part relating to load lines to such a ship might seriously impede research into development of such features and their incorporation in ships and the Central Government and the Governments of the countries to be visited by the ship are satisfied that the ship complies with safety requirements which are adequate for the purposes for which the ship is intended and are such as to ensure the overall safety of the ship;

(*f*) any ship which is not normally engaged on voyages to ports outside India but which in exceptional circumstances is required to undertake such voyage if the Central Government is satisfied that the ship complies with safety requirements which are adequate for such voyage.".

Amendment of section 312.

6. In section 312 of the principal Act,—

(*a*) in sub-section (*1*), for the words, figures and letters "after the 30th day of June, 1932", the words, figures and letters "on or after the 21st day of July, 1968" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words, figures and letters "before the 1st day of July, 1932", the words, figures and letters "before the 21st day of July, 1968" shall be substituted;

(*ii*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) the load lines are in the position required by clause (*e*) of sub-section (*1*).".

Insertion of new section 312A. Alterations after survey.

7. After section 312 of the principal Act, the following section shall be inserted, namely:—

"312A. Where any survey under this Part of a ship for the purpose of assignment and marking of load lines has been completed, then, notwithstanding anything contained in this Act, the owner, agent or master of the ship shall not make or cause to be made any alteration in the structure, equipment, arrangements, material or scantlings covered by the survey without the prior written permission of the Central Government or a person authorised by that Government in this behalf.".

Amendment of section 316.

8. In section 316 of the principal Act, in sub-section (*1*), for clause (*a*), the following clauses shall be substituted, namely:—

'(*a*) in the case of an existing ship which is of one hundred and fifty tons gross or more or a new ship of twenty-four metres or more in length, and which in either case carries cargo or passengers, a certificate to be called "an international load line certificate";

(*aa*) in the case of a ship which is exempted under clause (*e*) or clause (*f*) of sub-section (*3*) of section 310, a certificate to be called "an international load line exemption certificate"; and'.

Substitution of new section for section 317.

9. For section 317 of the principal Act, the following section shall be substituted, namely:—

Duration and cancellation of certificates.

"317. (*1*) Every certificate issued in respect of a ship under clause (*a*) or clause (*b*) of sub-section (*1*) of section 316 and every certificate issued under clause (*aa*) of that sub-section to a ship referred to in clause (*e*) of sub-section (*3*) of section 310 shall be in force for a period of five years from the date of its issue or for such shorter period as may be specified in the certificate but subject to the provisions of this Part, a new certificate may be issued in respect of such ship:

Provided that where it is not possible to issue such new certificate to any ship before the expiry of its existing certificate, the Central Government or any other person authorised by it to issue such certificate may, on being satisfied that no alterations affecting the ship's free board have been made in the structure, equipment, arrangements, material or scantlings, after the last survey of the ship under sub-section (5), extend the validity of the existing certificate for such period not exceeding five months as the Central Government or such person may deem fit.

(*2*) Every certificate issued under clause (*aa*) of sub-section (*1*) of section 316 to a ship referred to in clause (*f*) of sub-section (*3*) of section 310 shall cease to be valid upon the completion of the voyage in respect of which such certificate was issued.

(*3*) Notwithstanding anything contained in the foregoing provisions of this section, any certificate issued in respect of a ship under sub-section (*1*) of section 316 shall cease to be valid when the ship ceases to be an Indian ship.

(*4*) The Central Government may, by order in writing, cancel any certificate issued in respect of a ship under sub-section (*1*) of section 316 if it is satisfied that—

(*a*) material alterations such as would necessitate assignment of an increased free board have taken place in the hull or superstructure of the ship,

(*b*) the fittings and appliances for the protection of openings, the guard rails, freeing ports, or the means of access to the crew's quarters are not maintained in an effective condition,

(*c*) the structural strength of the ship is lowered to such an extent as to render the ship unsafe,

(*d*) the markings of the deck line and load lines on the ship have not been properly maintained:

Provided that no such order shall be made unless the person concerned has been given a reasonable opportunity to represent his case.

(*5*) The owner of every ship in respect of which any certificate has been issued under sub-section (*1*) of section 316 shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner once at least in each year during the period commencing three months before and ending three months after the anniversary date of issue of the certificate for the purpose of determining whether

the certificate should, having regard to the provisions of sub-section (4), remain in force:

Provided that the Central Government may, if satisfied in any case for reasons to be recorded in writing that it is necessary or expedient so to do, extend by order in writing the time within which a ship shall be caused to be so surveyed.

(6) If the owner fails to cause the ship to be surveyed as aforesaid, the Central Government may, after giving the owner a reasonable opportunity to represent his case and without prejudice to any other action that may be taken under this Act in respect of such failure, cancel the certificate.

(7) Notwithstanding anything contained in sub-section (1), any international load line certificate issued or renewed under this Act before the date of publication of the Merchant Shipping (Amendment) Act, 1970, in the Official Gazette and in force on that date, shall continue to be in force,—

(a) for the unexpired portion of the period for which such certificate had been issued or, as the case may be, renewed; or

(b) for a period of two years from the commencement of this section,

whichever is shorter.

(8) Where any certificate has ceased to be valid or been cancelled under this section, the Central Government may require the owner or master of the ship to which the certificate relates to deliver up the certificate as it directs and the ship may be detained until such requirement has been complied with.

(9) On the survey of any ship in pursuance of this section, there shall be paid by the owner of the ship such fee as may be prescribed.".

Amendment of section 321.

10. Section 321 of the principal Act shall be re-numbered as sub-section (1) of that section, and—

(a) in sub-section (1) as so re-numbered, for the word "registered", the words "registered or to be registered" shall be substituted; and

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted namely:—

"(2) The Central Government shall, as soon as may be, after the issue of a certificate in respect of a ship under sub-section (1), forward to the Government at whose request such certificate was issued a copy each of the certificate, the survey report used in computing the free board of the ship and of the computations.".

Amendment of section 322.

11. In section 322 of the principal Act, for the words "load line certificate", in both the places where they occur, the words "load line certificate or, as the case may be, an international load line exemption certificate" shall be substituted.

Amendment of section 323.

12. In section 342 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) A surveyor may, at any reasonable time, go on board any ship (other than an Indian ship) carrying cargo or passengers and registered in a country to which the Load Line Convention applies, when such ship is within any port in India, for the purpose of demanding the production of any international load line certificate or, as the case may be, international load line exemption certificate for the time being in force in respect of the ship:

Provided that such ship is an existing ship of one hundred and fifty tons gross or more or a new ship of twenty-four metres or more in length.";

(*b*) in sub-section (*2*),—

(*i*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) that no material alterations as would necessitate the assignment of an increased free board have taken place in the hull or superstructure of the ship;";

(*ii*) in clause (*d*), for the words "in as effective a condition as they were in when the certificate was issued", the words "in an effective condition" shall be substituted;

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) If a valid international load line exemption certificate is produced to the surveyor on demand made under sub-section (*1*), the surveyor's powers of inspecting the ship with respect to load lines shall be limited to seeing that the conditions stipulated in the certificate are complied with.";

(*d*) in sub-section (*3*), sub-section (*4*) and sub-section (*5*), for the words "on any such inspection", the words, brackets and figures "on any inspection under sub-section (*2*) or, as the case may be, sub-section (*2A*)" shall be substituted;

(*e*) in sub-section (*6*), after the words "load line certificate", the words "or, as the case may be, international load line exemption certificate" shall be inserted.

Amendment of section 326.

13. In section 326 of the principal Act,—

(*a*) for clause (*a*), the following clause shall be substituted namely:—

"(*a*) no ship belonging to a country to which the Load Line Convention applies being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 323; and";

(*b*) in clause (*b*), in sub-clause (*i*), after the words "load line certificate", the words "or, as the case may be, an international load line exemption certificate" shall be inserted.

Amendment of section 328.

14. In section 328 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words ", renewal and cancellation of Indian load line certificates", the words "and cancellation of Indian load line certificates or, as the case may be, international load line exemption certificates" shall be substituted;

(*ii*) in clause (*a*), for the words "any such certificate issued in respect of a ship of one hundred and fifty tons gross or more carrying cargo or passengers", the following shall be substituted, namely:—

"any such certificate issued in respect of a ship carrying cargo or passengers being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length";

(*b*) in sub-section (*2*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that such direction shall not apply to any ship carrying cargo or passengers being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length if such ship is registered in a country to which the Load Line Convention applies, and is engaged in plying on voyages from or to any port in India to or from any port outside India.".

Amendment of heading of Part X.

15. In the heading to Part X of the principal Act, the words "LIMITATION OF" shall be omitted.

Insertion of new Part XA.

16. For section 352 of the principal Act, the following shall be substituted, namely:—

'PART XA

LIMITATION OF LIABILITY

Definitions.

352. In this Part, under the context otherwise requires,—

(*a*) "claim" means a personal claim or property claim;

(*b*) "franc" means a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred;

(*c*) "Fund", in relation to a vessel, means the limitation Fund constituted under section 352C;

(*d*) "liability", in relation to owner of a vessel, includes liability of the vessel herself;

(*e*) "occurrence" means an occurrence referred to in sub-section (*1*) of section 352A;

(*f*) "personal claim" means a claim resulting from loss of life or personal injury;

(*g*) "property claim" means any claim other than a personal claim arising from an occurrence.

Limitation of liability of owner for damages in respect of certain claims.

352A. (1) The owner of a sea-going vessel may limit his liability in accodance with the provisions of section 352B in respect of any claim arising from any of the following occurrences unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner—

(a) loss of life of or personal injury to, and person being carried in the vessel, or loss of, or damage to any property on board the vessel;

(b) loss of life of, or personal injury to, any other person (whether on land or on water), loss of or damage to any other property or infringement of any rights—

(i) which is caused by the act, neglect or default of any person on board the vessel for whose act, neglect or default the owner is responsible; or

(ii) which is caused by the act, neglect or default of any person not on board the vessel for whose act, neglect or default the owner is responsible:

Provided that the owner shall be entitled to limit his liability in respect of any claim arising out of any act, neglect or default as is referred to in sub-clause (ii) only when the act, neglect or default is one which occurs in the navigation or the management of the vessel or in the loading, carriage or discharge of cargo or in the embarkation, carriage or disembarkation of its passengers.

(2) The burden of proving that the occurrence giving rise to a claim against the owner of a vessel did not result from his actual fault or privity shall be on the owner.

(3) Nothing in this section shall apply to—

(a) any obligation or liability imposed by any law relating to the removal of wreck and arising from or in connection with the raising, removal or destruction of any vessel which is sunk, stranded or abandoned (including anything which may be on board such vessel) and any obligation or liability arising out of damage caused to harbour works, navigation and navigable waterways;

(b) claims for salvage or to claims for contribution in general average;

(c) any claim by the master or a member of the crew of the vessel or any servant of the owner who is on board the vessel or whose duties are connected with the vessel (including any claim by the legal representative of such master, member of the crew or servant) if the contract of service between the owner and such master or member of the crew or servant is governed by the law of any foreign country and that law either does not set any limit to the liability in respect of such claims or sets a limit exceeding that set to it by section 352B.

(4) Any action on the part of the owner of a vessel to limit his liability under sub-section (1) shall not merely by reason of such action constitute an admission of liability.

(5) An owner of a vessel shall be entitled to limit his liability under sub-section (1) in respect of any occurrence even in cases where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the vessel.

Limits of liability.

352B. (1) The amounts to which the owner of a vessel may limit his liability under sub-section (1) of section 352A shall be—

(a) where the occurrence has given rise to property claims only, an aggregate amount not exceeding the amount equivalent to one thousand francs for each ton of the vessel's tonnage;

(b) where the occurrence has given rise to personal claims only, an aggregate amount not exceeding the amount equivalent to three thousand and one hundred francs for each ton of the vessel's tonnage;

(c) where the occurrence has given rise both to personal claims and property claims, an aggregate amount not exceeding the amount equivalent to three thousand and one hundred francs for each ton of the vessel's tonnage of which the first portion of the each ton of the vessel's tonnage shall be exclusively appropriated amount equivalent to two thousand and one hundred francs for to the payment of personal claims and of which the second portion of the amount equivalent to one thousand francs for each ton of the vessel's tonnage shall be appropriated to the payment of property claims:

Provided that in cases where the first portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payment against the second portion of the amount.

Explanation.—For the purposes of this sub-section, the tonnage of a vessel of less than three hundred tons shall be deemed to be three hundred tons.

(2) The limits set by sub-section (1) to the liabilities mentioned therein shall apply to the aggregate of such liabilities which are incurred on any distinct occasion, and shall so apply in respect of each distinct occasion without regard to any liability incurred on another occasion.

(3) For the purposes of this section a vessel's tonnage shall be determined in such manner as the Central Government may, by general or special order, specify.

(4) The Central Government may from time to time by order determine the amounts which for the purposes of this section are to be taken as equivalent to three thousand and one hundred and one thousand francs respectively.

Limitation Fund and consolidation of claims against owners.

352C. (1) Where any liability is alleged to have been incurred by the owner of a vessel in respect of claims arising out of an occurrence and the aggregate of the claims exceeds or is likely to exceed the limits of liability of the owner under section 352B, then the owner may apply to the High Court for the setting up of a limitation Fund for the total sum representing such limits of liability.

(2) The High Court to which the application is made under sub-section (1) may determine the amount of the owner's liability and require him to deposit such amount with the High Court or furnish such security in respect of the amount as in the opinion of the High Court is satisfactory and the amount so deposited or secured shall constitute a limitation Fund for the purposes of the claims referred to in sub-section (1) and shall be utilised only for the payment of such claims.

(3) After the Fund has been constituted, no person entitled to claim against it shall be entitled to exercise any right against any other assets of the owner in respect of his claim against the Fund, if that Fund is actually available for the benefit of the claimant.

(4) Subject to the provisions of this Part, the High Court may distribute the amount constituting the Fund rateably amongst the several claimants and may stay any proceedings pending in any other court in relation to the same matter and may proceed in such manner and subject to such rules of the High Court as to making persons interested parties to the proceedings, and as to the exclusion of any claims which do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the High Court thinks fit.

(5) Where the owner establishes that he has paid in whole or in part any claim in respect of which he can limit his liability under section 352A, the High Court shall place him in the same position and to the same extent in relation to the Fund as the claimant whose claim he has paid.

(6) Where the owner has established that he may at a later date be required to pay in whole or in part, any of the claims under this Part, which could be settled from the Fund, the High Court may notwithstanding the foregoing provisions of this section order that a sufficient sum may be provisionally set aside for the purpose to enable the owner to enforce his claim against the Fund at a later date in accordance with the provisions of sub-section (4).

(7) if the owner is entitled to make a claim against a claimant arising out of the same occurrence, their respective caims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

Release of ship, etc.

352D. (1) Where a vessel or other property is detained in connection with a claim which appears to the High Court to be founded on a liability to which a limit set by section 352B applies, or security is given to prevent or obtain release from such detention, the High Court may, and in the circumstances mentioned in sub-section (3) of this section shall, order the release of the vessel, property or security if the conditions specified in sub-section (2) are satisfied; and where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the High Court to adjudicate upon the claim.

(2) The conditions referred to in sub-section (1) are—

(a) that security which in the opinion of the High Court is satisfactory (in this section referred to as "guarantee") has previously been given whether in India or elsewhere, in respect of the said liability or any other liability incurred on the same occasion and

the High Court is satisfied that if the claim is established, the amount for which the guarantee was given or such part thereof as corresponds to the claim will be actually available to the claimant; and

(*b*) that either the guarantee is for an amount not less than the said limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(*3*) The circumstances referred to in sub-section (*1*) are that the guarantee was given in a port which, in relation to the claim, is the relevant part (or as the case may be, a relevant port) and that port is in a convention country.

(*4*) For the purposes of this section—

(*a*) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which security was last given;

(*b*) any question whether the amount of any security is (either by itself or together with any other amount) not less than any limit set by section 352B shall be decided as at the time at which the security is given;

(*c*) where part only of the amount for which a guarantee was given will be available to a claimant that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in sub-section (*1*).

(*5*) In this section—

(*a*) "convention country" means any country in respect to which the International Convention relating to the Limitation of the Liability of owners of sea-going ships signed in Brussels as the 10th day of October, 1957, is in force and includes any country to which the Convention extends by virtue of article 14 thereof;

(*b*) "relevant port", in relation to any claim, means a port where the event giving rise to the claim occurred, or if that event did not occur in that port, the first port of call after the event occurred and includes in relation to a claim for loss of life or personal injury or for damage to cargo, the port of disembarkation or discharge.

Application to ships in course of completion or construction, etc.

352E. The provisions of this Part relating to limitation of liability of owners shall extend and apply to the owners, builders or other persons having an interest in any vessel built in any port or place in India from and including the launching of such vessel until the registration thereof in accordance with the provisions of this Act, as they apply in relation to the owner of a vessel registered under this Act.

Application of this Part to charterer, manager, etc., of a vessel.

352F. (*1*) Subject to the provisions of sub-section (*2*), the provisions of this Part relating to limitation of liability of an owner of a vessel in respect of claims arising out of an occurrence shall apply to the charterer, manager and operator of the vessel and to the master, members of the crew and other servants of the owner charterer, manager or operator acting in the course of their employment in the same manner as they apply in relation to the owner:

Provided that the total limits of liability of the owner and all other persons referred to in this sub-section in respect of personal claims and

property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with the provisions of section 352B.

(2) The master or a member of the crew of a vessel may limit his liability under sub-section (1) even if the occurrence which gives rise to a claim against him resulted from the actual fault or privity of the master and the members of the crew or any one or more of them:

Provided that where the master or a member of the crew is at the same time the owner, co-owner, charterer, manager or operator of a vessel, the provisions of this sub-section shall only apply where such occurrence resulted from any act, neglect or default committed by the master or, as the case may be, the member of the crew in his capacity as master, or, as the case may be, as a member of the crew;'

Insertion of new Part XIA.

17. After Part XI of the principal Act, the following Part shall be inserted, namely:—

'PART XIA

PREVENTION OF POLLUTION OF THE SEA BY OIL

Commencement and application.

356A. (1) The provisions of this Part shall take effect from such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions in respect of tankers and ships other than tankers.

(2) They shall apply to and in relation to—

(a) tankers of one hundred and fifty tons gross or more; and

(b) other ships of five hundred tons gross or more.

Definitions.

356B. In this Part, unless the context otherwise requires,—

(a) "Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, signed in London on the 12th day of May, 1954, as amended from time to time;

(b) "discharge", in relation to oil or oily mixture, means any discharge or escape howsoever caused;

(c) "mile" means a nautical mile of 1,852 metres;

(d) "oil" means,—

(i) crude oil,

(ii) fuel oil,

(iii) marine diesel oil conforming to such specifications as may be prescribed,

(iv) lubricating oil;

(e) "oily mixture" means a mixture with an oil content of hundred parts or more in a million parts of the mixture;

(f) "oil reception facilities", in relation to a port, means facilities for enabling vessels using the port to discharge or deposit oil residues;

(g) "prohibited zone" means any such sea area as may be specified in the rules made under section 356J to be a prohibited zone for the purposes of this Part;

(*h*) "ship" means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage;

(*i*) "tanker" means a ship in which the greater part of the cargo space is constructed or adopted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

Prohibitions as to discharge of oil or oily mixture.

356C. (*1*) No oil or oily mixture shall be discharged from an Indian tanker or other ship within any of the prohibited zones or from a foreign tanker or other ship within the prohibited zone adjoining the territories of India.

(*2*) The discharge of oil or oily mixture from an Indian ship, other than a tanker or from a foreign ship other than a tanker while such foreign ship is proceeding to any place or port in India, shall, during the period of three years immediately following the commencement of this sub-section, be made as far as practicable from land:

Provided that this sub-section shall not apply to a ship which is proceeding to a port where oil reception facilities are not available.

(*3*) No oil or oily mixture shall be discharged anywhere at sea from an Indian ship, being a ship of twenty thousand tons gross tonnage or more for which the building contract was entered into on or after the coming into force of this sub-section:

Provided that this sub-section shall not apply in any case where by reason of special circumstances it is impracticable or unreasonable to retain the oil or oily mixture in the ship and the master of the ship reports, as soon as may be, after such discharge the fact in the prescribed form and manner to the Director-General.

Prohibition not to apply in certain cases.

356D. Nothing in section 356C shall apply to—

(*a*) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo or saving life at sea;

(*b*) the escape of oil or of oily mixture resulting from a damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimising the escape;

(*c*) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil when such discharge is made as far from land as is practicable;

(*d*) the discharge from the bilges of a ship of oily mixture during the period of twelve months following the date on which this clause comes into force and after the expiration of such period of oily mixture containing no oil other than lubricating oil which has drained or leaked from the machinery spaces in the ship.

Equipment in ships to prevent oil pollution.

356E. For the purpose of preventing or reducing discharges of oil and oily mixtures into the sea, the Central Government may make rules requiring Indian ships to be fitted with such equipment and to comply with such other requirements (including requirement for preventing the escape of fuel oil or heavy diesel oil into bilges) as may be prescribed.

Oil record book.

356F. (*1*) Every Indian tanker and every other Indian ship which uses oil as fuel shall maintain on board the tanker or such other ship an oil record book.

(*2*) The forum and manner in which the oil record book shall be maintained, the nature of the entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

Inspection and control of ships to which the Convention applies.

356G. (*1*) A surveyor or any person appointed in this behalf may, at any reasonable time, go on board a ship to which any of the provisions of this Part apply, for the purposes of—

(*a*) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(*b*) satisfying himself about the adequacy of the measures taken to prevent the escape of oil or oily mixture from the ship;

(*c*) ascertaining the circumstances relating to an alleged discharge of oil or oily mixture from the ship in contravention of the provisions of this Part; and

(*d*) inspecting the oil record book.

(*2*) The surveyor or any such person may, if necessary, make, without unduly delaying the ship, a true copy of any entry in the oil record book of the ship and may require the master of the ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

Information regarding contravention of the provisions of the Convention.

356H. (*1*) If, on report from a surveyor or other person authorised to inspect a vessel under section 356G, the Central Government is satisfied that any provision of the Convention has been contravened anywhere by a foreign ship being a ship to which the provisions of the Convention apply, it shall transmit particulars of the alleged contravention to the Government of the country to which the ship belongs.

(*2*) On receipt of information from the Government of any country which has ratified the Convention that an Indian ship has contravened any provision of the Convention, the Central Government shall investigate the matter and if satisfied that any provision of this Part or any rule made thereunder has been contravened, take appropriate action against the owner or master and intimate such Government of the action so taken.

Oil reception facilities at ports in India.

356I. (*1*) Notwithstanding anything contained in any other law for the time being in force, in respect of every port in India, the powers of the port authority shall include the power to provide oil reception facilities.

(*2*) A port authority providing oil reception facilities or a person providing such facilities by arrangement with the port authority, may make charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof as may be approved, by notification in the Official Gazette, by the Central Government in respect of the port.

(3) Where the Central Government is satisfied that there are no oil reception facilities at any port in India or that the facilities available at such port are not adequate for enabling ships calling at such port to comply with the requirements of the Convention, the Central Government may, after consultation with the port authority in charge of such port, direct by order in writing such authority to provide or arrange for the provision of such oil reception facilities as may be specified in the order.

(4) The Central Government may, by notification in the Official Gazette, specify the ports in India having oil reception facilities in accordance with the requirements of the Convention.

Explanation.—For the purpose of this section, "port authority" means,—

(*a*) in relation to any major port to which the provisions of the Major Port Trusts Act, 1963, apply, the Board of Trustees constituted in respect of that port under that Act; 38 of 1963.

(*b*) in relation to any other port, the Conservator of the Port, within the meaning of section 7 of the Indian Ports Act, 1908. 15 of 1908.

Power to make rules.

356J. (*1*) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the purposes of this Part.

(*2*) In particular and without prejudice to the generality of the provisions of sub-section (*1*), such rules may—

(*a*) prescribe the specifications of marine diesel oil for the purposes of clause (*d*) of section 356B;

(*b*) specify the areas which shall be deemed to be prohibited zones for the purposes of this Part;

(*c*) prescribe the form and manner in which the oil record book shall be maintained, the nature of the entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto; and

(*d*) prescribe the manner in which investigation may be made by the Central Government for the purpose of sub-section (*2*) of section 356H.'.

Amendment of section 436.

18. In section 436 of the principal Act, in sub-section (*2*), in the table,—

(*a*) in item 102, for the brackets and figure "(5)", in both the places where they occur, the brackets and figure "(8)" shall be substituted;

(b) after item 115A, the following items shall be inserted, namely:—

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
"115B	(a) If oil or oily mixture is discharged in contravention of sub-section (1) of section 356C—		
	(i) where such discharge is from an Indian or a foreign tanker,	356C(1)	The master of the tanker shall be liable to fine which may extend to two thousand rupees.
	(ii) where such discharge is from an Indian ship not being a tanker or a foreign ship not being a tanker.	356C(1)	The master of the ship or, if the ship is unmanned, the person in charge of the operation shall be liable to fine which may extend to one thousand rupees.
	(b) If oil or oily mixture is discharged from an Indian ship other than a tanker or from a foreign ship other than a tanker in contravention of sub-section (2) of section 356C.	356C(2)	The master of the ship or, if the ship is unmanned the person in charge of the operation shall be liable to fine which may extend to one thousand rupees.
	(c) If oil or oily mixture is discharged from an Indian ship in contravention of sub-section (3) of section 356C.	356C(3)	The master of the ship shall be liable to fine which may extend to one thousand rupees."
	(d) If the master of the ship fails to make the report referred to in the proviso to sub-section (3) of section 356C.	356C(3)-proviso	The master of the ship shall be liable to fine which may extend to five hundred rupees.
115C	If an Indian ship is not fitted with equipment prescribed under section 356 E.	356E	The owner, master or agent shall be liable to fine which may extend to two thousand rupees and in addition to a fine which may extend to twenty rupees for every day during which the offence continues after conviction.
115D	(a) If the master of an Indian tanker or other ship fails to maintain an oil record book as required by section 356F or contravenes any rule [other than a rule referred to in (b) below] made under that section.	356F(1), 356F(2)	Fine which may extend to two thousand rupees.
	(b) If any person wilfully destroys or mutilates or renders illegible or prevents the making of, any entry in the oil record book or makes or causes to be made a false entry in such book in contravention of any rule made under section 356F.	356F	Imprisonment which may extend to six months or fine which may extend to five thousand rupees or both.".

Substitution of new section for section 460A.

19. For section 460A of the principal Act, the following section shall be substituted, namely:—

Removal of Difficulties.

"460A. (*1*) If any difficulty arises in giving effect to the provisions of this Act, in so far as they relate to the Safety Convention or to the Load Line Convention or to the Convention referred to in clause (*a*) of section 356B, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty and giving effect to the provisions of such Convention:

Provided that no order shall be made under this section after the expiry of three years from the date of publication of the Merchant Shipping (Amendment) Act, 1970, in the Official Gazette.

(*2*) Every order made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions.".

Certain contraventions, etc., not to be offences.

20. Notwithstanding the retrospective operation of sections 2 to 14 (both inclusive) of this Act no contravention of, or no failure to comply with, any of the provisions of the principal Act as amended by those sections shall render any person guilty of any offence if such contravention or failure—

(*i*) relates either to any provision inserted in the principal Act by any of the said sections, or to any existing provision thereof, as amended by any of the said sections, and

(*ii*) occurred on or after the 21st day of July, 1968 and before the date of publication of this Act in the Official Gazette.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

ERRATA

In the Gazette of India, Extraordinary, Part II, Section 1, dated March 26, 1969,

1. In the Appropriation Act, 1969 (4 of 1969), in the Schedule,—

Page 52—In column 3 under "Excess", *for* "Chrged portion" *read* "Charged portion" and *under* "Charged portion" as so corrected *insert* "Rs.".

Page 53—Under "Total" against Vote No. 121, *for* "17, 7,352" *read* "1,79,07,352".

2. In the Appropriation (No. 2) Act, 1969 (5 of 1969), page 54, in the long title, *for* "Cosolidated" *read* "Consolidated"

In the Public Wakfs (Extension of Limitation) Amendment Act, 1969 (9 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated March 26, 1969,—

Page 63,—

(*i*) In the notification, *for* "is hereby" *read* "are hereby";

(*ii*) In the long title, *for* "1969" *read* "1959".

In the Finance Act, 1969 (14 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated May 13, 1969,—

Page 85—*For* "No. 14 OF 1966" *read* "No. 14 OF 1969".

Page 107—In clause (c) of sub-section (*1*) of section 31, *for* "33½ per cent." *read* "33-1|3 per cent.".

In the First Schedule, in Part I,—

Page 110—In Paragraph A, under the heading "*Rates of income-tax*" in the second column against item (3), *for* "Rs. 10,0 0" *read* "Rs. 10,000;".

Page 113—In Paragraph B, under the heading "*Rates of income-tax*" in the first column against item (5), *for* "20,00 " *read* "Rs 20,000" and *for* "Rs. 25,00 " *read* "Rs. 25,000".

Page 125—In the Second Schedule in Part II under clause (*v*), *for* "2(38)" *read* "72(38)".

In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 (22 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated August 9, 1969,—

Page 233—In the notification, *for* "Justic" *read* "Justice".

Page 250—In line 24, *after* "acquired" *insert*",".

In the Gold (Control) Amendment Act, 1969 (26 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated August 30, 1969,—

Page 284—In line 12, *omit* "," *after* "dispose".

Page 285—In line 16, *insert* "," *after* " (b)".

Page 289—Against line 4 from bottom, *omit* "6 of 1969".

In the Central Sales Tax (Amendment) Act, 1969 (28 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated August 30, 1969, page 293, *omit* "(AS PASSED BY THE HOUSES OF PARLIAMENT)".

In the Gazette of India, Extraordinary, Part II, Section 1, dated August 31, 1961,—

1. In the Appropriation (Railways) No. 3 Act, 1969 (29 of 1969) page 299, *for* "AUGAST 31" *read* "AUGUST 31".

2. In the Appropriation (Railways) No. 4 Act, 1969 (30 of (1969),—

Page 300—In the long title, *for* "during the year" *read* "during the financial year".

Page 301—In the Schedule, before Vote No. 5, in sub-columns of column 3 *insert* "Rs.".

In the Foreign Marriage Act, 1969 (33 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated August 31, 1969, page 353, *for* "N.P.D. NANBOODIRIPAD," *read* "N.D.P. NAMBOODIRIPAD,".

In the Banaras Hindu University (Amendment) Act, 1969 (34 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated August 31, 1969, page 355, *for "New Delhi, the 1st August, 1969|Bhadra 9, 1891 (Saka)" read "New Delhi, the 31st August, 1969| Bhadra 9, 1891 (Saka)".*

In the Criminal and Election Laws Amendment Act, 1969 (35 of 1969) as published in the Gazette of India, Extraordinary Part II, Section 1, dated September 5, 1969, page 361, in the long title, *omit* "," *after* "Criminal".

In the Indian Penal Code (Amendment) Act, 1969 (36 of 1969) as published in the Gazette of India, Extraordinary, Part II Section 1 dated September 8, 11969,—

Page 367—In the last line, *after* "representation" *insert* ",".

Page 369—In line 14, *before* '(*ii*)' *insert* '"'.

In the Wakf (Amendment) Act, 1969 (38 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated December 3, 1969, page 383, in the marginal heading to section 9, *after* "Amendment" *insert* "of section 46.".

In the Oilfields (Regulation and Development) Amendment Act, 1969 (39 of 1969) as published in the Gazette of India, Extraordinary, Part

II, Section 1, dated December 20, 1969, page 385, in the marginal heading to section 1, *for* "comment." *read* "commencement.".

In the Khuda Bakhsh Oriental Public Library Act, 1969 (43 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated December 26, 1969, page 398, the expression beginning with *"to declare"* and ending with *"other connected matters."* in italics after the long title shall be omitted.

In the Appropriation (No. 5) Act, 1969 (49 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated December 27, 1969, page 419, in the Schedule in column 3 under "Excess", in the third column *insert* "Total".

In the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated December 30, 1969, page 472, section 24, line 3, *omit* "tion,".

In the Motor Vehicles (Amendment) Act, 1969 (56 of 1969) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated December 30,1969,—

Page 520—In line 1, *for* "sub-section" *read* "sub-sections".

Page 543—In line 6, *for* "figures" *read* "figure".

Page 552—In serial Nos. 27 and 28 of the Twelfth Schedule, in column 2, *for* "State Carriage" *read* "Stage Carriage".

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI. 1970